

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LESLIE LIWANAG et al.,

Plaintiffs,

-against-

THE EXECUTIVE CLUB, INC. d/b/a
The Penthouse Executive Club, ROBERT GANS,
and MARK YACKOW,

Defendants.

-----X
MARSHA CHALMERS,

Plaintiff,

-against-

THE EXECUTIVE CLUB, INC. d/b/a
The Penthouse Executive Club, ROBERT GANS,
and MARK YACKOW,

Defendants.

-----X
KIMBA M. WOOD, U.S.D.J.:

The above two actions, *Liwanag v. The Executive Club*, 13 Civ. 7362, and *Chalmers v. The Executive Club*, 13 Civ. 7730, were both brought by plaintiffs who opted out of the recently concluded class action, *In re Penthouse Executive Club Compensation Litigation*, 10 Civ. 1145. The claims of plaintiffs in *Liwanag* and *Chalmers* are the same as those asserted by the class in *Penthouse Executive Club*.

Given the substantial similarity of the factual allegations and claims raised in the *Liwanag* and *Chalmers* actions, the Court finds that they should be consolidated, pursuant to Federal Rule of Civil Procedure 42(a) (“Rule 42(a)”). Rule 42(a) permits consolidation of actions that “involve a common question of law or fact.” Fed. R. Civ. P. 42(a). Consolidation is

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 2/10/14
DATE FILED: 2/10/14

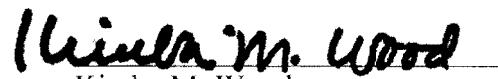
13 Civ. 7362 (KMW)
13 Civ. 7730 (KMW)
ORDER

“a valuable and important tool of judicial administration” that should be “invoked to expedite trial and eliminate unnecessary repetition and confusion.” *Devlin v. Transp. Commc’ns Int’l Union*, 175 F.3d 121, 130 (2d Cir. 1999) (internal citations and quotations omitted). “The trial court has broad discretion to determine whether consolidation is appropriate.” *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284 (2d Cir. 1990); *see also Devlin*, 175 F.3d at 130 (“A district court can consolidate related cases under Federal Rule of Civil Procedure 42(a) *sua sponte*.”). The gains in efficiency to the Court, the parties, and any witnesses from consolidation will far outweigh any risk of prejudice or confusion. *See Johnson*, 899 F.2d at 1285.

It is hereby ordered that the *Liwanag*, 13 Civ. 7362, and *Chalmers*, 13 Civ. 7730, actions be consolidated for all purposes under Rule 42(a). The caption of the consolidated actions shall be *In re Penthouse Executive Club Opt-Out Litigation*, Master File No. 13 Civ. 7362 (KMW). The Clerk of the Court is respectfully directed to close 13 Civ. 7730.

SO ORDERED.

Dated: New York, New York
February 10, 2014


Kimba M. Wood
United States District Judge